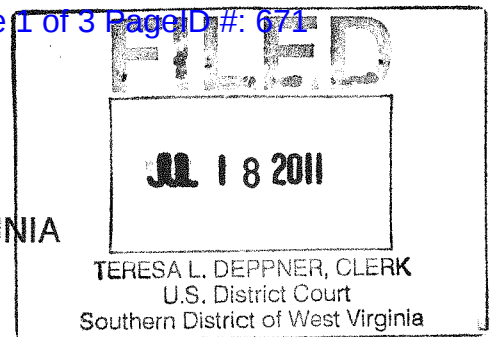


UNITED STATES DISTRICT COURT  
for the  
SOUTHERN DISTRICT OF WEST VIRGINIA

United States of America,  
Plaintiff,  
v

Civil Action No.: 2:10-cv-1087  
Judge Copenhaver



88,029.08, more or less  
in United States Currency,  
Defendant.

Katherine A. Hoover MD and  
John F. Tomasic, interested parties,  
no criminal charges pending.


REQUEST FOR AN ORDER REGARDING SUBJECT MATTER JURISDICTION


NOW COME, John F. Tomasic and Katherine A. Hoover MD, pro se, and humbly request that this honorable Court issue an Order stating that subject matter jurisdiction regarding the practice of medicine belongs to the States and the medical community and not to the Federal government. The right to challenge the United States is clearly stated in *Bond v United States* decided by the US Supreme Court June 16, 2011.

The interested parties have raised the issue of subject matter jurisdiction extensively in both of the now combined cases. It is clear from the Constitution, the Tenth Amendment, *Bivens v the Six Unknown* and *Gonzales v. Oregon* 543 US 243 (2006) that the practice of medicine is not regulated by the federal government and agents of the United States are liable for their actions. The case of *United States v Moore* 423 US 122 (1975) cited by the United States is not relevant to the current proceeding because Moore admitted that his prescriptions were not for a legitimate medical purpose. The laws cited by the United States, 21 USC S 841 (a)(1), apply to drug dealers not doctors writing legal prescriptions. The investigation that was done was completely biased and based on hearsay and illegal informants. West Virginia law, which supersedes federal law, protects doctors from any criminal prosecution for the good faith prescribing of narcotics. The case cited by Judge Copenhaver, *Gonzales v Raich* 545 US 1 (2005), is irrelevant as it involved interstate commerce. Raich dealt with patients growing their own marijuana not with the doctor's right to prescribe it. The issue of subject matter jurisdiction must be decided before any discovery can proceed. Physicians have a duty to relieve pain and treat every patient to the best of their ability as stated in West Virginia law Article 3A S30-3A-2(a)(2).

WHEREFORE, the interested parties request that the Court issue an Order Granting subject matter jurisdiction over the practice of medicine to the States and the medical community. This is an issue of stare decisis and legally the Court must deny the United States of America subject matter jurisdiction over the practice of medicine.


Respectfully submitted,

  
John F. Tomasic

  
Katherine A. Hoover MD

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing REQUEST FOR AN ORDER REGARDING SUBJECT MATTER JURISDICTION has been faxed to AUSA Betty Pullin at 304-347-5104 on July 15, 2011.

  
Katherine A. Hoover MD  
c/o Dr. Norman Gay  
West Bay Medical Clinic  
West Bay Street  
Nassau, N.P., Bahamas  
242-328-4014

875458717468

Extremely Urg

FedEx  
ExpFedEx International Air Waybill  
Express

1 From  
Date 7/15/11 Sender's FedEx Account Number  
Sender's Name Katherine Hoover Phone 242-322-11  
Company C/O Dr. Norman Guy  
Address West Bay Medical Clinic  
Address West Bay St.  
City Nassau State Province N.P.  
Country Bahamas ZIP Postal Code

2 To  
Recipient's Name Teresa Deppner Phone 304-347-300  
Company U.S. District Clerk  
Address 300 Virginia St. Dept./Floor  
Address Suite 2000  
City Charleston State Province WV  
Country USA ZIP Postal Code 25301  
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Commodity Description	Harmonized Code	Country of Manufacture	Value for Customs
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☐ No ECI required, enter exemption number. If other than NLR, enter License Exception.  
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